IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA BIG STONE GAP DIVISION

KENNETH H. MARSHALL,)
Plaintiff,) Case No. 2:09CV00065
V.) FINAL JUDGMENT
MICHAEL J. ASTRUE,) By: James P. Jones
COMMISSIONER) United States District Judge
OF SOCIAL SECURITY,	
)
Defendant.)

For the reasons stated in the Opinion accompanying this Final Judgment, it is **ADJUDGED AND ORDERED** as follows:

- 1. The objection by the Commissioner of Social Security ("Commissioner") to the magistrate judge's report and recommendations as to plaintiff's mental residual functional capacity is overruled and the magistrate judge's finding and recommendation as to such issue is accepted;
- 2. The objection by the Commissioner to the magistrate judge's report and recommendations as to plaintiff's physical residual functional capacity is granted and the magistrate judge's finding and recommendation as to such issue is not accepted;

3. The motion for summary judgment by the Commissioner is denied;

4. The final decision of the Commissioner is **vacated** and the case is

remanded to the Commissioner for further consideration pursuant to the Opinion

accompanying this Final Judgment; and

5. The clerk is directed to close the case.

ENTER: October 4, 2010

/s/ James P. Jones

United States District Judge